

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----X
ALVIN FULTON

Plaintiff,

- against -

CATHOLIC CHARITIES OF THE
ARCHDIOCESE OF NEW YORK and
LINCOLN HALL

Defendants.
-----X

To the above named Defendants:

YOU ARE HEREBY SUMMONED to answer the Verified Complaint in this action and to serve a copy of your Verified Answer on the undersigned attorneys, Hach Rose Schirripa & Cheverie LLP, representing Plaintiff, within twenty (20) days after the service of this Summons, exclusive of the day of service (or within 30 days after the service is complete if this Summons is not personally delivered to you within the State of New York).

Please take notice that this action is based on a tort cause of action, that plaintiff seeks money damages for personal injuries and that incase of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the Verified Complaint.

Defendants' addresses:


Lincoln Hall
Route 202
Lincolndale, New York 10540

Catholic Charities of the Archdiocese of New York
1011 First Avenue, 11th Floor
New York, NY 10022

Dated: New York, New York
November 1, 2019

Respectfully Submitted.

HACH ROSE SCHIRIPPA & CHEVERIE, LLP


MICHAEL ROSE, ESQ.
HILLARY M. NAPPI, ESQ.
112 Madison Avenue, 10th Floor
New York, New York 10016
212-213-8311

Attorneys for Plaintiff Alvin Fulton

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----X
ALVIN FULTON

Index No. _____

Plaintiff,

- against -

VERIFIED COMPLAINT

CATHOLIC CHARITIES OF THE
ARCHDIOCESE OF NEW YORK and
LINCOLN HALL

JURY TRIAL DEMANDED

Defendants.
-----X

Plaintiff ALVIN FULTON by his attorneys Hach Rose Schirripa & Cheverie LLP, complaining of the Defendants CATHOLIC CHARITIES OF THE ARCHDIOCESE OF NEW YORK and LINCOLN HALL respectfully alleges, upon information and belief and states as follows:

NATURE OF THE ACTION

1. This is a revival action brought pursuant to the New York Child Victims Act (the “CVA”), CPLR § 214-g. The CVA opened a historic one-year one-time window for victims and survivors of childhood sexual abuse in the State of New York to pursue lapsed claims. Prior to the passage of the CVA, each of Plaintiff’s claims were time barred.

2. When Alvin Fulton was a minor, he was sexually abused by Lawrence Higgins, the then head prefect at Defendant Lincoln Hall who was the responsible for the well-being of the minors placed in the care of Defendant Lincoln Hall, an affiliate of Defendant Catholic Charities of The Archdiocese of New York.

3. As a result of the passage of the CVA, Plaintiff for the first time in his life can now pursue restorative justice. Plaintiff brings suit to vindicate his rights.

PARTIES

4. Plaintiff Alvin Fulton (“Plaintiff”) is an individual residing in Westchester County, New York.

5. Defendant Catholic Charities of the Archdiocese of New York (“Catholic Charities”) is a domestic not for profit corporation formed pursuant to the law of the State of New York with its principal place of business located in New York County at 1011 First Avenue, New York, New York 10022.

6. Catholic Charities purports to follow the mission of upholding the dignity of people as made in the image of God by serving the basic needs of the poor, troubled, frail and oppressed of all religions.

7. Catholic Charities collaborates with parishes and Catholic and non-Catholic partners to allegedly build a compassionate and just society. Through a network of administered, sponsored and affiliated agencies, Catholic Charities delivers, coordinates and advocates for quality human services and programs touching almost every human need.

8. Catholic Charities is a federation of ninety (90) agencies that provide help for hundreds of thousands of New Yorkers in need.

9. Defendant Lincoln Hall is a domestic not for profit corporation formed pursuant to the law of the State of New York with its principal place of business located in Lincolndale, New York.

10. Defendant Lincoln Hall is one of the agencies that partners with Defendant Catholic Charities. Founded in 1863, under the auspices of The New York Catholic Protectory, the Christian Brothers and a lay board of engineers to help Civil War orphans formed Lincoln Hall. Now, more

than 125 years later, Lincoln Hall provides vital services for children, non-Catholics and Catholics alike.

11. Lincoln Hall currently holds itself out as an institution that provides specialized services for adolescents by concentrating on teaching them how to learn. Indeed, Lincoln Hall declares that it serves not only the needs of disadvantaged young men, but that it serves the needs of society.

12. Defendant Catholic Charities and Defendant Lincoln Hall are hereinafter sometimes referred to collectively as “Defendants.”

13. Upon information and belief, Lawrence Higgins was employed by Defendants, and acted as their agent.

14. Upon information and belief, Lawrence Higgins (“Higgins”) was assigned to work at Lincoln Hall in the 1980s and in the context of his employment came to meet Plaintiff through his employment at Lincoln Hall.

15. Higgins is not a party to this action. However, Higgins is the individual who committed the acts described herein which give rise to Plaintiff’s allegations.

16. At all times relevant hereto, Higgins was an agent of the Defendants.

JURISDICTION AND VENUE

17. This Court has personal jurisdiction over the claims asserted herein pursuant to C.P.L.R. §§ 301 and 302, in that Defendants conduct business in New York.

18. This Court has jurisdiction over this action because the amount of damages Plaintiff seeks exceed the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

19. Venue for this action is proper in the County of New York pursuant to C.P.L.R. § 503 in that one or more of Defendants conduct business in this County.

FACTS COMMON TO ALL CAUSES OF ACTION

20. Plaintiff grew up in New York City and was the youngest of seven children.
21. When Plaintiff was around 14 years old, he began hanging out with a group of older children in his neighborhood who were frequently in trouble and many had criminal records.
22. One day when Plaintiff was with his older friends, the group of kids jumped a subway turnstile. Subsequently the police apprehended the entire group.
23. Unbeknownst to Plaintiff, one of the kids had a stolen a wallet. Because the group was afraid of going to Riker's Island, and Plaintiff was only 14 and had no criminal record, Plaintiff took the blame.
24. Plaintiff did not know that juvenile detention would hold its own horrors.
25. After brief stays at juvenile detention centers in the Bronx and Staten Island, Plaintiff was transferred to Lincoln Hall for one year in the early 1980s.
26. Plaintiff had observed physical and sexual abuse at previous detention centers and had been physically assaulted on more than one occasion.
27. As the car transferring him to Lincoln Hall's serene Westchester campus arrived, the driver told Plaintiff that he would be "okay" at Lincoln Hall, and that it was a place "where boys become men."
28. Although Plaintiff was 15 when he arrived at Lincoln Hall, he was physically small for his age and emotionally much younger than his years – he still sucked his thumb.
29. At all times herein, Defendant Lincoln Hall's Westchester Campus shall mean "the Premises" and is the location where Plaintiff's sexual abuse occurred.
30. Upon information and belief, and at all times relevant hereto, the Defendants owned the "Premises.

31. Upon information and belief, and at all times relevant hereto, Higgins was on the staff of, acted as an agent of, and served as an employee of the Defendants.

32. Upon information and belief, and at all times relevant hereto, Higgins was acting in the course and scope of his employment with the Defendants.

33. Upon information and belief, and at all times relevant hereto, Higgins had living-quarters on the Premises.

34. At all relevant times, Defendants, their agents, servants and employees, held Higgins out to the public, and to the Plaintiff, as their agent and employee.

35. At all relevant times, Defendants, their agents, servants and employees, held Higgins out to the public, and to the Plaintiff, as having been vetted, screened and approved by those Defendants.

36. At all relevant times, Plaintiff reasonably relied upon the acts and representations of the Defendants, their agents, servants and employees and reasonably believed that Higgins was an agent or employee of Defendants who was vetted, screened and approved by Defendants.

37. At all relevant times, Plaintiff trusted Higgins because Defendants held him out as someone who was safe and could be trusted with the supervision, care, custody and control of Plaintiff.

38. At all relevant times, Plaintiff believed that the Defendants would exercise such care as would a parent of ordinary prudence in comparable circumstances when Defendants assumed supervision, care, custody and control of Plaintiff.

39. Originally placed in the Crest Cottage, Plaintiff was quickly transferred to Falahee Cottage, where he was housed with much younger children, many as young as 11 or 12 years old.

40. From the beginning of his time in Falahee Cottage, Plaintiff looked up to Higgins, the head prefect.

41. In his early 30s, Higgins was strong, tall, and led with a confident sense of authority. He could kick a football farther than anyone Plaintiff had ever seen.

42. Plaintiff hoped to make a good impression on Higgins and perhaps even become a “high boy,” the highest position of authority for a boy at the Cottage.

43. One day relatively soon after he arrived at Lincoln Hall, Plaintiff was in the empty gym during a break between classes, when Higgins approached and asked in a casual tone if Plaintiff had a girlfriend. Plaintiff answered that he did not.

44. Higgins then asked Plaintiff if he “like[d] boys.” Plaintiff, young for his age, did not understand the question. Thinking that Higgins was asking if he liked being friends with other boys and Plaintiff replied “yes.”

45. Higgins then reached into Plaintiff’s pants and began to massage Plaintiff’s penis with his bare hands, reaching around to touch his anus as well. He asked, “Do you like them like that?”

46. Plaintiff froze in shock and discomfort. Higgins was the charismatic, confident leader of the dorm, an authority figure whom he trusted and respected.

47. Plaintiff could not comprehend why Higgins would want to touch his genitals.

48. Plaintiff wanted to scream or push Higgins away, but knowing that Higgins was far larger and stronger than him and had the power to ruin his future, he was too afraid.

49. Eventually, Higgins removed his hands and stepped back. In an evident attempt further to manipulate Plaintiff, Higgins casually said: “Hey, you’re going to be a high boy soon.”

Then he added derisively: “[y]ou know, one of the reasons you’re here is because you suck your thumb.”

50. Plaintiff had already felt embarrassed for being in a cottage with much younger boys, and Higgins’ comment compounded the shame and made him feel like he had somehow brought the abuse upon himself. The dual comments – one a reward, one a cut down – had their intended purpose, and Plaintiff felt a mix of deep shame and fear of Higgins, who plainly had the power both to reward and to destroy, and stayed quiet, hoping that he could simply avoid being alone with Higgins in the future.

51. As promised, and as a clear attempt to gain increased access to Alvin, Higgins did deign to give Plaintiff the title of “high boy”, along with one other boy.

52. Whereas most of the boys in the Cottage slept in long rows of cots, the two “high boys” slept in a room connected to Higgins’ room.

53. A few months after the first incident, Higgins targeted Plaintiff again.

54. Plaintiff was lying alone in bed in the high boys’ bedroom because he was feeling sick, when Higgins walked into the room wearing an open robe. He walked over and climbed on top of Plaintiff, pretending to playfully wrestle with him, simultaneously pressing his erection against Plaintiff.

55. Once again Plaintiff froze as Higgins physically pinned him down with his large, athletic body. As with the first incident, Higgins eventually stopped and climbed off of Plaintiff. This time, Higgins mentioned a reward – the “steak dinner” that he would take Plaintiff to at the end of Plaintiff’s time at Lincoln Hall – a special treat reserved for high boys.

56. At all times herein described, Higgins’ conduct alleged herein violated New York State’s Penal Code.

57. Upon information and belief, Higgins victimized many other boys while he was employed at Lincoln Hall. Plaintiff frequently observed boys entering and exiting Higgins' room at unusual times, and Higgins gave the boys who spent more time with him extravagant gifts, going so far as to give one "special" boy a motorcycle.

58. In fact, in 1993, Higgins was convicted for sexual abuse in the first degree, for having sexually abused a ten-year old boy.

59. In 2013, Higgins pleaded guilty to possession of child pornography and being a felon in possession of a firearm. He was sentenced to 150 months in prison and 20 years of supervised release.

60. As a direct result of the Defendants' conduct described herein, Plaintiff has suffered and will continue to suffer great pain of mind and body, severe and permanent emotional distress, and physical manifestations of emotional distress. Plaintiff was prevented from obtaining the full enjoyment of life; has incurred and will continue to incur expenses for medical and psychological treatment, therapy, and counseling; and has incurred and will continue to incur loss of income and/or loss of earning capacity. As a victim of sexual abuse, Plaintiff is unable at this time to fully describe all of the details of that abuse and the extent of the harm suffered as a result.

CAUSES OF ACTION

FIRST CAUSE OF ACTION NEGLIGENCE AGAINST DEFENDANTS

61. Plaintiff repeats and re-alleges each and every allegation set forth in the paragraphs "1" through "60" as if fully set forth herein.

62. At all times relevant, Defendant Catholic Charities owned, operated, managed, maintained, controlled, secured and supervised the premises and employees within the Premises.

63. At all times relevant, Defendant Catholic Charities, as the owner, operator, supervisor and manager of the premises and the employees within the Premises had a duty to protect the Plaintiff from injury while Plaintiff was lawfully within the Premises.

64. At all times relevant, Defendant Lincoln Hall owned, operated, managed, maintained, controlled, secured and supervised the premises and employees within the Premises.

65. At all times relevant, Defendant Lincoln Hall, as the owner, operator, supervisor and manager of the premises and the employees within the Premises had a duty to protect the Plaintiff from injury while Plaintiff was lawfully within the Premises.

66. At all times relevant, while lawfully upon the premises, Plaintiff was caused to be injured solely and wholly due to the negligence and carelessness of Defendants Catholic Charities and Lincoln Hall.

67. That solely and wholly by reason of the foregoing, Plaintiff was injured.

68. That said occurrence and the resulting injuries to Plaintiff were caused solely and wholly by reason of the negligence and carelessness of Defendants Catholic Charities and Lincoln Hall in the ownership, operation, management, maintenance, control, security and supervision of the premises and the employees within the Premises.

69. That as a result of the foregoing, Plaintiff was injured solely and wholly as a result of the negligence, carelessness and recklessness of the Defendants Catholic Charities and Lincoln Hall and/or each of them, without any negligence on the part of the Plaintiff contributing thereto.

70. By reason of the foregoing, Defendants, jointly severally, and/or in the alternative are liable to Plaintiff for compensatory damages and for punitive damages, together with interests and costs.

**SECOND CAUSE OF ACTION
NEGLIGENT HIRING AND SUPERVISION
AGAINST ALL DEFENDANTS**

71. Plaintiff repeats and re-alleges each and every allegation set forth in the paragraphs “1” through “60” as if fully set forth herein.

72. Defendants Catholic Charities and Lincoln Hall negligently hired and retained its employee Higgins with knowledge of Higgins’s propensity for the type of behavior which resulted in Plaintiff’s injuries in this action.

73. Defendants Catholic Charities and Lincoln Hall negligently placed its employee Higgins in a position to cause foreseeable harm, which most probably would not have occurred had the employer taken reasonable care in the hiring of employees.

74. Defendants Catholic Charities and Lincoln Hall negligently hired its employee Higgins, negligently placed its employee Higgins in a position to cause foreseeable harm, which Plaintiff would not have been subjected to, had Defendants Catholic Charities and Lincoln Hall taken reasonable care in supervising or retaining the employee Higgins.

75. Defendants Catholic Charities and Lincoln Hall knew or should have known of its employee Higgins’s propensity for the conduct that caused Plaintiff’s injuries.

76. Defendants Catholic Charities and Lincoln Hall negligently failed to properly screen or supervise its employee Higgins.

77. That as a result of the foregoing Plaintiff was seriously and permanently injured.

78. That said occurrence and the resulting injuries to Plaintiff were caused solely and wholly by reason of the negligence and carelessness of Defendants Catholic Charities and Lincoln Hall in the ownership, operation, management, maintenance, control, security and supervision of the premises and employees within the Premises.

79. That as a result of the foregoing, Plaintiff was injured solely and wholly as a result of the negligence, carelessness and recklessness of the Defendants Catholic Charities and Lincoln Hall and/or each of them, without any negligence on the part of the plaintiff contributing thereto.

80. By reason of the foregoing, Defendants, jointly severally, and/or in the alternative are liable to Plaintiff for compensatory damages and for punitive damages, together with interests and costs.

**THIRD CAUSE OF ACTION
INADEQUATE SECURITY
AGAINST ALL DEFENDANTS**

81. Plaintiff repeats and re-alleges each and every allegation set forth in the paragraphs “1” through “60” as if fully set forth herein.

82. Defendants Catholic Charities and Lincoln Hall negligently failed to provide adequate security to Plaintiff while Plaintiff was lawfully within the premises.

83. Defendants Catholic Charities and Lincoln Hall negligently failed to provide adequate security to Plaintiff while Plaintiff was lawfully within the premises and while defendant had knowledge of its employee Higgins’ propensity for the type of behavior which resulted in Plaintiff’s injuries in this action.

84. Defendants Catholic Charities and Lincoln Hall negligently failed to safeguard Plaintiff, a minor child.

85. Defendants Catholic Charities and Lincoln Hall knew or should have known of its employee Higgins’ propensity for the conduct that caused Plaintiff’s injuries and negligently failed to take reasonable measures to protect and provide security to the Plaintiff.

86. That as a result of the foregoing Plaintiff was seriously and permanently injured.

87. That said occurrence and the resulting injuries to Plaintiff were caused solely and wholly by reason of the negligence and carelessness of Defendants Catholic Charities and Lincoln Hall in the ownership, operation, management, maintenance, control, security and supervision of the premises and employees within the premises.

88. That as a result of the foregoing, Plaintiff was injured solely and wholly as a result of the negligence, carelessness and recklessness of the Defendants Catholic Charities and Lincoln Hall and/or each of them, without any negligence on the part of the plaintiff contributing thereto.

89. By reason of the foregoing, Defendants, jointly severally, and/or in the alternative are liable to Plaintiff for compensatory damages and for punitive damages, together with interests and costs.

**FOURTH CAUSE OF ACTION
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS
AGAINST ALL DEFENDANTS**

90. Plaintiff repeats and re-alleges each and every allegation set forth in the paragraphs “1” through “60” as if fully set forth herein.

91. Defendants Catholic Charities and Lincoln Hall engaged in reckless, extreme, and outrageous conduct by providing Higgins with access to children, including Plaintiff, despite knowing that he would likely use his position to groom and sexually abuse them, including Plaintiff.

92. Defendants Catholic Charities and Lincoln Hall’s misconduct was so shocking and outrageous that it exceeds the reasonable bounds of decency as measured by what the average member of the community would tolerate and demonstrates an utter disregard by them of the consequences that would follow.

93. As a result of this reckless, extreme, and outrageous conduct, Higgins gained access to Plaintiff and sexually abused him.

94. Defendants knew that this this reckless, extreme, and outrageous conduct would inflict severe emotional and psychological distress, including personal physical injury, on others, and Plaintiff did in fact suffer severe emotional and psychological distress and personal physical injury as a result, including severe mental anguish, humiliation and emotional physical distress.

95. By reason of the foregoing, Defendants, jointly severally, and/or in the alternative are liable to Plaintiff for compensatory damages and for punitive damages, together with interests and costs.

**FIFTH CAUSE OF ACTION
NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS
AGAINST ALL DEFENDANTS**

96. Plaintiff repeats and re-alleges each and every allegation set forth in the paragraphs “1” through “60” as if fully set forth herein.

97. Defendants and their agents, servants, and/or employees knew or reasonably should have known that the failure to properly advise, supervise, and hire Higgins, the agent, servant, and/or employee who sexually abused Plaintiff, would and did proximately result in physical and emotional distress to Plaintiff.

98. Defendants and their agents, servants, and/or employees knew or reasonably should have known that the sexual abuse and other improper conduct would and did proximately result in physical and emotional distress to Plaintiff.

99. Defendants had the power, ability, authority, and duty to intervene with and/or stop the improper conduct that resulted in Plaintiff being sexually abused by Higgins.

100. Despite said knowledge, power and duty, Defendants negligently failed to act so as to stop, prevent, and prohibit the improper conducted that resulted in Higgins sexually abusing Plaintiff.

101. By reason of the foregoing, Defendants are liable to Plaintiff for compensatory damages and punitive damages, together with interests and costs.

**SIXTH CAUSE OF ACTION
VICARIOUS LIABILITY IN RESPONDEAT SUPERIOR
AGAINST ALL DEFENDANTS**

102. Plaintiff repeats and re-alleges each and every allegation set forth in the paragraphs “1” through “60” as if fully set forth herein.

103. Defendants Catholic Charities and Lincoln Hall were and are vicariously liable in *respondeat superior* to Plaintiff for Higgins’ foregoing unlawful conduct in that said acts were reasonably foreseeable by Defendants Catholic Charities and Lincoln Hall and within the general scope of his employment.

104. Defendants Catholic Charities and Lincoln Hall were and are vicariously liable in *respondent superior* to Plaintiff for Higgins’ foregoing unlawful conduct for given prior instances of similar conduct of Higgins and other employees, agents, and/or servants, as well as Defendants Catholic Charities and Lincoln Hall’s failure to respond accordingly, such unlawful conduct was reasonably foreseeable, and within the general scope of Defendants Catholic Charities and Lincoln Hall’s business in that due to prior known instances of similar conduct on part Higgins, the herein actions of same could have been reasonably foreseen by Defendants Catholic Charities and Lincoln Hall; and, therefore Defendants assumed a relationship requiring it be responsible for Plaintiff’s safety and protection.

105. As a result of the foregoing the Plaintiff has been caused to suffer and sustain severe and potentially permanent personal injuries, including severe injury and potentially permanent injury to her emotional and psychological well-being.

106. By reason of the foregoing, Defendants, jointly severally, and/or in the alternative are liable to Plaintiff for compensatory damages and for punitive damages, together with interests and costs.

**SEVENTH CAUSE OF ACTION
BREACH OF DUTY *IN LOCO PARENTIS*
AGAINST ALL DEFENDANTS**

107. Plaintiff repeats and re-alleges each and every allegation set forth in the paragraphs “1” through “60” as if fully set forth herein.

108. While Plaintiff was a minor, Plaintiff was entrusted by the State of New York to the control and supervision of Defendants. During the times that Plaintiff was entrusted to Defendants, Defendants were responsible for the supervision and control of Higgins. These Defendants owe – and owed – a duty to children entrusted to them to act in *loco parentis* and to prevent foreseeable injuries.

109. At all times material hereto, Defendants t actions were willful, wanton, malicious, reckless, negligent, grossly negligent and/or outrageous in their disregard for the rights and safety of Plaintiff.

110. As a direct result of Defendants, Plaintiff has suffered the injuries and damages described herein.

111. By reason of the foregoing, Defendants, jointly severally, and/or in the alternative are liable to Plaintiff for compensatory damages and for punitive damages, together with interests and costs.

WHEREFORE, Plaintiff, demands judgment against the Defendants on each cause of action as follows:

- A. Awarding compensatory damages in an amount to be provide at trial, but in any event in an amount that exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction; extent permitted by law;
- B. Awarding punitive damages to the extent permitted by law;
- C. Awarding costs and fees of this action, including attorneys' fees to the extent permitted by law;
- D. Awarding prejudgment interest to the extent permitted by law;
- E. Awarding such other and further relief as to this Court may seem just and proper.

JURY DEMAND

Plaintiff demands a trial by jury on all issues so triable.

Dated: New York, New York
November 1, 2019

Respectfully Submitted,

HACH ROSE SCHIRIPPA & CHEVERIE, LLP



MICHAEL ROSE, ESQ.
HILLARY M. NAPPI, ESQ.
112 Madison Avenue, 10th Floor
New York, New York 10016
212-213-8311

Attorneys for Plaintiff Alvin Fulton

ATTORNEY VERIFICATION

Hillary M. Nappi, an attorney duly admitted and licensed to practice law in the courts of the State of New York, hereby affirms, pursuant to CPLR ¶ 2106, states under the penalty of perjury, as follows:

I am an associate at Hach Rose Schirripa & Cheverie LLP, attorneys for the Plaintiff herein, and as such, fully familiar with all the facts and circumstances heretofore stated herein by reason of a file maintained in our office located at 112 Madison Avenue, 10th floor, New York, New York 10016; I have read the foregoing Complaint, and the same is true to our own knowledge, except as to the matters therein stated to be alleged upon information and belief and, as to those matters, we believe them to be true; and that this verification is being made by us because the Plaintiff does not reside within New York County wherein our office is located.

Dated: November 1, 2019
New York, New York

A handwritten signature in blue ink that reads "Hillary Nappi". The signature is written in a cursive style and is positioned to the right of the typed name.